

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

HEMRIETTA KEEN,

Plaintiff,

v.

CIVIL ACTION NO. 2:09-cv-00545

ACTAVIS GROUP, hf, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

On February 10, 2010, I entered a memorandum opinion and order denying defendants' motion for an order to show cause why plaintiff's case should not be dismissed for failure to provide sufficient responses to plaintiff's fact sheet. I ordered in the same memorandum opinion and order that plaintiff's counsel provide to the defendants no later than February 22, 2010, the necessary authorizations for medical records and release of disability claims in order to cure the remaining deficiencies. The memorandum noted that it had taken a period of five months and a series of three deficiency letters to narrow the deficiencies to these two items. Plaintiff's counsel was given notice that failure to respond as directed, as required by PTO 16, would result in the imposition of monetary sanctions pursuant to Federal Rule of Civil Procedure 16.

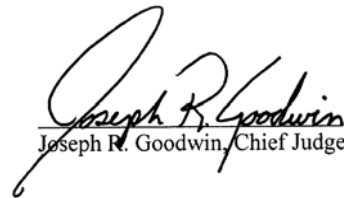
Defendants have notified the court that the plaintiff had in fact provided a corrected disability authorization on or about January 26, 2010; however, the plaintiff failed to provide updated authorizations for medical records by the February 22, 2010, deadline imposed in my memorandum opinion and order. The deficiency has not been cured as of this date and plaintiff has not made any

attempt to show, pursuant to Rule 16(f)(2), that his non-compliance was substantially justified or that other circumstances make an award of expenses unjust. There is no indication by plaintiff's counsel that the client is at fault for the failure to respond as directed. Accordingly, the court concludes that a monetary sanction is properly imposed on counsel.

I hereby **ORDER** monetary sanctions in the amount of \$200.00 to be paid by plaintiff's representative counsel to defendants' lead counsel no later than March 12, 2010. Plaintiff's counsel is further **ORDERED** to show cause in writing no later than March 18, 2010, why this civil action should not be dismissed without prejudice for failure to prosecute.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: March 3, 2010



Joseph R. Goodwin
Joseph R. Goodwin, Chief Judge